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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

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19 ANDREA M. WILLIAMS AND JAMES
20 STEWART, On Behalf of Themselves And
All Others Similarly Situated,

21 Plaintiffs,

22 v.
23 APPLE INC.,

24 Defendant.

25 Case No. 5:19-cv-04700-LHK

26
27 **UPDATED JOINT CASE
MANAGEMENT STATEMENT**

28 The Hon. Lucy H. Koh

Pursuant to the Northern District of California's Standing Order regarding the content of the
Joint Case Management Statement and Proposed Order, the Local Rules of the Northern District of
California, the Federal Rules of Civil Procedure, and the Clerk's Notice Continuing the Case

1 Management Conference (dated May 13, 2021), Plaintiff James Stewart (“Plaintiff”) and Defendant
2 Apple Inc. (“Apple” or “Defendant”) (collectively the “Parties” and each a “Party”) hereby submit
3 this Updated Joint Case Management Statement.

4 1. Motions

5 On December 18, 2020, Plaintiffs filed a Motion to Strike Apple’s Affirmative Defenses. (ECF
6 No. 71.) That Motion is fully briefed and was set for hearing on April 15, 2021.

7 On January 8, 2021, Plaintiffs filed a Motion for Class Certification. (ECF No. 76.)

8 On May 28, 2021 the Court issued its Order Granting in Part and Denying in Part Motion for
9 Class Certification (ECF No. 110). The Court certified a limited class defined as follows:

10 All persons in the United States who paid for a subscription to iCloud at any time during
11 the period September 16, 2015 to January 31, 2016. Excluded from this Class definition
12 are all employees, officers, or agents of Defendant Apple Inc. Also excluded from this
Class definition are all judicial officers assigned to this case as well as their staff and
immediate families.

13 On June 1, 2021, Plaintiff filed a Motion for Administrative Relief to Secure the Next
14 Available Hearing Date for Their Planned Motion for Summary Judgment or, in the Alternative,
15 Partial Summary Judgment or Summary Adjudication (ECF No. 111) seeking to advance the summary
16 judgment hearing date. The Court denied Plaintiffs’ motion. (ECF No. 113).

17 Apple anticipates filing a motion for summary judgment following the close of expert and fact
18 discovery and in conjunction with an appropriate schedule for class notice. Depending on what further
19 facts are revealed during discovery, Plaintiffs reserve the right to move for full or partial summary
20 judgment or summary adjudication.

21 2. Discovery

22 On April 21, 2021, Plaintiffs served their second set of interrogatories and requests for
23 production. Apple served its responses and objections to the interrogatories on June 11, 2021. Apple’s
24 deadline to serve its responses and objections to Plaintiffs’ second set of production requests is June
25 18, 2021, pursuant to the Parties’ agreement.

26 Plaintiff served deposition notices for current or former Apple employees Monica Sarkar,
27 David Thompson, and Eric Billingsley. The Parties are currently coordinating on scheduling

1 deposition dates for these individuals and anticipate the depositions for these three witnesses will occur
2 the week of June 21.

3 The Court issued an updated Case Management Order on September 17, 2020. (ECF No. 64.)
4 On May 12, 2021, the Parties filed a Stipulation to Request the Court Modify the Case Management
5 Order (ECF No. 64), (ECF No. 107), which the Court granted on May 13, 2021, (ECF No. 108). The
6 close of fact discovery is set for June 28, 2021, and the close of expert discovery on September 2,
7 2021.

8 3. Settlement and ADR

9 The parties attended private mediation on February 17, 2021. The mediation was not
10 successful. (*See* Joint Settlement Status Report Following Mediation (ECF No. 97)).

11 4. Class Notice & Administration

12 On June 3, 2021, the Parties met and conferred regarding a host of issues, including timing and
13 process for class notice and administration of the class.

14 a. Plaintiff's Statement

15 Plaintiffs' counsel has requested Apple provide a class list. That request was included both as
16 a formal Rule 34 Request in Plaintiffs' outstanding requests for production of documents and also in
17 telephone conversations with Apple's counsel following the Court's Order granting in part and
18 denying in part Plaintiffs' motion for class certification. Apple's counsel has replied that they are
19 working on putting together a class list but have not produced one to date nor have they indicated
20 when a class list is expected.

21 Plaintiffs' counsel plans to solicit bids from class administrators to undertake the class notice
22 dissemination and opt-out compilation tasks. Apple's counsel has expressed a preference for having
23 a class administrator on Apple's list of preferred administrators undertake these tasks. While Plaintiffs'
24 counsel have no objection to soliciting bids from administrators on Apple's preferred list, they are not
25 committing to restrict themselves only to Apple's preferred list of administrators. Plaintiffs' counsel

1 has a duty to safeguard the interests of the certified class, such that soliciting competitive bids from a
 2 number of qualified class administrators is appropriate.

3 Plaintiffs believe that Apple should be able to provide a class list promptly so that a class
 4 administrator and notice program may be approved by the Court. Provided Apple fulfills its obligation
 5 to timely produce the class list without delay, Plaintiffs see no reason to further modify the case
 6 schedule.

7 b. Apple's Statement

8 Apple is currently working to compile the class list at which point the Parties can select a
 9 claims administrator via a competitive bidding process. Apple is committed to working with Plaintiffs
 10 to select an appropriate class administrator. Apple has previously undertaken a careful vetting process
 11 of several class administrators to ensure that they provide sufficient security and data protection
 12 protocols. Given the potential sensitive nature of the class data and the need to securely transfer and
 13 store such data, the class administrator selected by the Parties will have to have gone through this
 14 rigorous review.

15 Apple is working to ascertain the overall number of class members and believes that
 16 information will be sufficient to begin the bidding process. Apple's response to Plaintiffs' outstanding
 17 discovery requests is not yet due.

18 Apple believes that a further case management conference may be necessary to revise the case
 19 schedule in light of the process now necessary for providing class notice and opt out period.

20 5. Scheduling

21 The Order Granting Stipulation to Request the Court Modify the Case Management Order
 22 (ECF No. 64), (ECF No. 108), sets the following schedule:

Scheduled Event	New Deadline
Case Management Conference	June 23, 2021
Close of Fact Discovery	June 28, 2021
Opening Expert Reports	July 19, 2021

Scheduled Event	New Deadline
Case Management Conference	June 23, 2021
Rebuttal Expert Reports	August 16, 2021
Close of Expert Discovery	September 2, 2021
Last Day to File Dispositive Motions (one per side in the entire case)	September 30, 2021
Hearing on Dispositive Motions	November 18, 2021
Final Pretrial Conference	January 20, 2022 at 1:30 p.m.
Jury Trial	February 28, 2022 at 9:00 a.m.

11 6. Trial

12 a. **Plaintiffs' Statement**

13 Based on the limited information obtained to date as part of Plaintiffs' research and drafting of
 14 the CAC and First Amended Complaint, as well as review of Apple's motions to dismiss, Plaintiffs
 15 anticipate they will require 12 Court days to select a jury, offer opening statements, and present their
 16 case-in-chief at trial. This is a very preliminary estimate that remains subject to change based on case
 17 developments, discovery obtained, and the Court's rulings.

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1 **b. Defendant's Statement**

2 The length of trial will depend on summary judgment proceedings. Until the resolution of any
3 summary judgment motions, the Parties do not have the necessary information to estimate the expected
4 length of a trial in this action. In any event, given the four-month class period and the significant
5 narrowing of the claims in this action, 12 days of trial is likely to be far too many.

6

7 Dated: June 16, 2021

THE KATRIEL LAW FIRM, P.C.

8 /s/ Roy A. Katriel

9 Roy A. Katriel
10 Attorneys for Plaintiffs

11 Dated: June 16, 2021

COOLEY LLP

12 /s/ Michelle C. Doolin

13 Michelle C. Doolin
14 Attorneys for Apple Inc.

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1 **ATTESTATION OF CONCURRENCE IN FILING**

2 Pursuant to Civ. L.R. 5-1(i)(3), I attest that concurrence in the filing of this document has
3 been obtained from the signatory.

4

5 Dated: June 16, 2021

6 _____
7 */s/ Michelle C. Doolin*
8 Michelle C. Doolin

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